

REFERENCE TITLE: safe haven providers; placement protocols

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

SB 1326

Introduced by
Senator Gray L

AN ACT

AMENDING TITLE 8, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-528; AMENDING SECTION 13-3623.01, ARIZONA REVISED STATUTES; RELATING TO CHILD WELFARE AND PLACEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 8, chapter 5, article 1, Arizona Revised Statutes, is
3 amended by adding section 8-528, to read:

4 8-528. Newborn infants left with safe haven providers:
5 placement protocol; definition

6 A. THE PLACEMENT OF NEWBORN INFANTS WHO ARE LEFT WITH SAFE HAVEN
7 PROVIDERS PURSUANT TO SECTION 13-3623.01 SHALL FOLLOW THE PROTOCOLS
8 PRESCRIBED IN THIS SECTION.

9 B. IF A NEWBORN INFANT IS LEFT WITH A PRIVATE CHILD WELFARE AGENCY
10 THAT IS LICENSED PURSUANT TO THIS ARTICLE OR WITH A PRIVATE ADOPTION AGENCY
11 THAT IS LICENSED PURSUANT TO SECTION 8-126 AND THE AGENCY HAS THE ABILITY AND
12 DESIRE TO TAKE CUSTODY OF THE INFANT AND TO PLACE THE INFANT FOR ADOPTION,
13 THE SAFE HAVEN PROVIDER SHALL DO THE FOLLOWING:

14 1. IMMEDIATELY TRANSPORT THE NEWBORN INFANT TO A HOSPITAL FOR A
15 PHYSICAL EXAMINATION.

16 2. IMMEDIATELY CALL CHILD PROTECTIVE SERVICES TO INFORM IT THAT A
17 NEWBORN INFANT HAS BEEN DROPPED OFF, THE LOCATION OF THE HOSPITAL WHERE THE
18 AGENCY TRANSPORTED THE INFANT AND THAT THE AGENCY WILL TAKE CUSTODY OF THE
19 INFANT AFTER THE HOSPITAL COMPLETES THE PHYSICAL EXAMINATION.

20 3. TAKE CUSTODY OF THE INFANT FROM THE HOSPITAL WITHIN TWENTY-FOUR
21 HOURS AFTER THE PHYSICAL EXAMINATION IS COMPLETED.

22 C. IF THE PRIVATE CHILD WELFARE AGENCY OR PRIVATE ADOPTION AGENCY DOES
23 NOT HAVE THE ABILITY OR DESIRE TO TAKE CUSTODY OF THE INFANT AND PLACE THE
24 INFANT FOR ADOPTION, THE AGENCY SHALL CONTACT CHILD PROTECTIVE SERVICES, AND
25 CHILD PROTECTIVE SERVICES SHALL CONTACT THE NEXT PRIVATE ADOPTION AGENCY ON A
26 ROTATING LIST OF AGENCIES MAINTAINED BY CHILD PROTECTIVE SERVICES UNTIL CHILD
27 PROTECTIVE SERVICES CONTACTS AN AGENCY THAT AGREES TO TAKE CUSTODY OF THE
28 INFANT. THE ADOPTION AGENCY MUST PICK UP THE INFANT FROM THE HOSPITAL WITHIN
29 TWENTY-FOUR HOURS AFTER THE PHYSICAL EXAMINATION IS COMPLETED.

30 D. IF A NEWBORN INFANT IS LEFT WITH A CHURCH THAT IS AFFILIATED WITH A
31 PRIVATE ADOPTION AGENCY, THE CHURCH MUST DO THE FOLLOWING:

32 1. IMMEDIATELY TRANSPORT THE INFANT TO A HOSPITAL FOR A PHYSICAL
33 EXAMINATION.

34 2. IMMEDIATELY CALL CHILD PROTECTIVE SERVICES TO INFORM IT THAT AN
35 INFANT HAS BEEN LEFT AT THE CHURCH, THE LOCATION OF THE HOSPITAL WHERE THE
36 CHURCH TRANSPORTED THE INFANT AND WHETHER A PRIVATE ADOPTION AGENCY WILL TAKE
37 CUSTODY OF THE INFANT.

38 3. CONTACT THE PRIVATE ADOPTION AGENCY AND INFORM THE AGENCY THAT A
39 NEWBORN INFANT HAS BEEN LEFT AT THE CHURCH.

40 E. IF THE AGENCY CONTACTED PURSUANT TO SUBSECTION D OF THIS SECTION
41 HAS THE ABILITY AND DESIRE TO TAKE CUSTODY OF THE INFANT AND PLACE THE INFANT
42 FOR ADOPTION, THE AGENCY MUST TAKE CUSTODY OF THE INFANT WITHIN TWENTY-FOUR
43 HOURS AFTER THE HOSPITAL COMPLETES THE PHYSICAL EXAMINATION.

44 F. IF THE CHURCH IS NOT AFFILIATED WITH A PRIVATE ADOPTION AGENCY OR
45 THE PRIVATE ADOPTION AGENCY DOES NOT HAVE THE ABILITY OR DESIRE TO TAKE

1 CUSTODY OF THE INFANT AND PLACE THE INFANT FOR ADOPTION, THE CHURCH SHALL
2 IMMEDIATELY CONTACT CHILD PROTECTIVE SERVICES, AND CHILD PROTECTIVE SERVICES
3 SHALL CONTACT THE NEXT PRIVATE ADOPTION AGENCY ON A ROTATING LIST OF AGENCIES
4 MAINTAINED BY CHILD PROTECTIVE SERVICES UNTIL IT CONTACTS AN AGENCY THAT
5 AGREES TO TAKE CUSTODY OF THE INFANT. THE ADOPTION AGENCY MUST PICK UP THE
6 INFANT FROM THE HOSPITAL WITHIN TWENTY-FOUR HOURS AFTER THE PHYSICAL
7 EXAMINATION IS COMPLETED.

8 G. IF A NEWBORN INFANT IS LEFT WITH A FIREFIGHTER WHO IS ON DUTY, AN
9 EMERGENCY MEDICAL TECHNICIAN WHO IS ON DUTY OR A STAFF MEMBER AT A HEALTH
10 CARE INSTITUTION THAT IS CLASSIFIED BY THE DEPARTMENT OF HEALTH SERVICES
11 PURSUANT TO SECTION 36-405 AS A HOSPITAL OR AS AN OUTPATIENT TREATMENT
12 CENTER, THE SAFE HAVEN PROVIDER SHALL DO THE FOLLOWING:

13 1. IMMEDIATELY TRANSPORT THE NEWBORN INFANT TO A HOSPITAL FOR A
14 PHYSICAL EXAMINATION.

15 2. IMMEDIATELY CONTACT CHILD PROTECTIVE SERVICES TO INFORM IT THAT A
16 NEWBORN INFANT HAS BEEN DROPPED OFF AT A FIRE STATION OR HEALTH CARE
17 INSTITUTION AND OF THE LOCATION OF THE HOSPITAL WHERE THE INFANT WAS TAKEN.

18 H. AFTER CHILD PROTECTIVE SERVICES IS CONTACTED PURSUANT TO SUBSECTION
19 G OF THIS SECTION, CHILD PROTECTIVE SERVICES SHALL CONTACT THE NEXT PRIVATE
20 ADOPTION AGENCY ON A ROTATING LIST MAINTAINED BY CHILD PROTECTIVE SERVICES
21 UNTIL CHILD PROTECTIVE SERVICES CONTACTS AN AGENCY THAT AGREES TO TAKE
22 CUSTODY OF THE INFANT. THE ADOPTION AGENCY MUST PICK UP THE INFANT FROM THE
23 HOSPITAL WITHIN TWENTY-FOUR HOURS AFTER THE PHYSICAL EXAMINATION IS
24 COMPLETED.

25 I. IF AN AGENCY DOES NOT TAKE CUSTODY OF THE NEWBORN INFANT WITHIN
26 TWENTY-FOUR HOURS AFTER THE HOSPITAL COMPLETES THE PHYSICAL EXAMINATION, THE
27 HOSPITAL SHALL CONTACT CHILD PROTECTIVE SERVICES, AND CHILD PROTECTIVE
28 SERVICES SHALL CONTACT THE NEXT PRIVATE ADOPTION AGENCY ON ITS ROTATING LIST
29 UNTIL AN AGENCY AGREES TO TAKE CUSTODY OF THE INFANT.

30 J. AN AGENCY THAT TAKES CUSTODY OF THE NEWBORN INFANT MUST COMPLY WITH
31 ALL STATE AND FEDERAL LAWS REGARDING ADOPTION AND PLACEMENT OF CHILDREN.

32 K. CHILD PROTECTIVE SERVICES SHALL INFORM AN AGENCY WHEN IT HAS
33 ROTATED TO THE TOP OF THE CONTACT LIST AND INFORM IT THAT CHILD PROTECTIVE
34 SERVICES WILL NOTIFY IT THE NEXT TIME A NEWBORN INFANT IS DROPPED OFF WITH A
35 SAFE HAVEN PROVIDER.

36 L. A PRIVATE ADOPTION AGENCY MAY CONTACT CHILD PROTECTIVE SERVICES TO
37 BE PLACED ON THE ROTATING LIST MAINTAINED BY CHILD PROTECTIVE SERVICES
38 PURSUANT TO THIS SECTION IF IT:

- 39 1. IS A NONPROFIT AGENCY.
- 40 2. DOES NOT SPECIALIZE IN INTERNATIONAL ADOPTIONS.
- 41 3. HAS A TWENTY-FOUR HOUR EMERGENCY CONTACT NUMBER.

42 M. THE PROTOCOLS PRESCRIBED IN THIS SECTION APPLY ONLY TO AN INFANT
43 WHO IS SEVENTY-TWO HOURS OF AGE OR YOUNGER AND WHO IS UNHARMED. IF AN INFANT
44 WHO IS TRANSPORTED TO A HOSPITAL IS OLDER THAN SEVENTY-TWO HOURS OR HAS BEEN

1 HARMED, THE HOSPITAL SHALL CONTACT CHILD PROTECTIVE SERVICES, AND CHILD
2 PROTECTIVE SERVICES SHALL TAKE CUSTODY OF THE INFANT.

3 N. FOR THE PURPOSES OF THIS SECTION, "CHURCH" HAS THE SAME MEANING
4 PRESCRIBED IN SECTION 13-3623.01, SUBSECTION H, PARAGRAPH 2, SUBDIVISION (d),
5 ITEM (iii).

6 Sec. 2. Section 13-3623.01, Arizona Revised Statutes, is amended to
7 read:

8 13-3623.01. Safe haven for newborn infants; definitions

9 A. A person is not guilty of abuse of a child pursuant to section
10 13-3623, subsection B solely for leaving an unharmed newborn infant with a
11 safe haven provider.

12 B. A fire station and a health care institution that is classified by
13 the department of health services pursuant to section 36-405 as a hospital or
14 an outpatient treatment center shall post a notice ~~at all entrances~~ that it
15 accepts a newborn infant pursuant to this section. The notice shall be
16 placed on the exterior of the building in a location that is noticeable to
17 the public. The ~~notice~~ WORDS "**BABY SAFE HAVEN**" shall be printed in
18 bold-faced capital letters that are not less than two inches in height. The
19 notice may include an identifying logo. A fire station, hospital or
20 outpatient treatment center that does not post a notice as prescribed by this
21 subsection is not subject to civil liability.

22 C. If a parent or agent of a parent voluntarily delivers the parent's
23 newborn infant to a safe haven provider, the safe haven provider shall take
24 custody of the newborn infant if both of the following are true:

25 1. The parent did not express an intent to return for the newborn
26 infant.

27 2. The safe haven provider reasonably believes that the child is a
28 newborn infant.

29 D. The safe haven provider shall **COMPLY WITH THE REQUIREMENTS OF**
30 **SECTION 8-528 AND** report the receipt of a newborn infant to child protective
31 services of the department of economic security as soon as practicable after
32 taking custody of the newborn infant. Child protective services shall report
33 the number of newborn infants delivered to safe haven providers pursuant to
34 section 8-526.

35 E. A parent or agent of a parent who leaves a newborn infant with a
36 safe haven provider may remain anonymous, and the safe haven provider shall
37 not require the parent or agent to answer any questions. A safe haven
38 provider shall offer written information about information and referral
39 organizations.

40 F. A safe haven provider who receives a newborn infant pursuant to
41 this section is not liable for any civil or other damages for any act or
42 omission by the safe haven provider in maintaining custody of the newborn
43 infant if the safe haven provider acts in good faith without gross
44 negligence.

1 G. This section does not preclude the prosecution of the person for
2 any offense based on any act not covered by this section.

3 H. For the purposes of this section:

4 1. "Newborn infant" means an infant who is seventy-two hours old or
5 younger.

6 2. "Safe haven provider" means any of the following:

7 (a) A firefighter who is on duty.

8 (b) An emergency medical technician who is on duty.

9 (c) A staff member at a health care institution that is classified by
10 the department of health services pursuant to section 36-405 as a hospital or
11 an outpatient treatment center.

12 (d) A staff member or volunteer at any of the following that posts a
13 public notice that it is willing to accept a newborn infant pursuant to this
14 section:

15 (i) A private child welfare agency licensed pursuant to title 8,
16 chapter 5, article 1.

17 (ii) An adoption agency licensed pursuant to section 8-126.

18 (iii) A church. For the purposes of this item, "church" means a
19 building that is erected or converted for use as a church, where services are
20 regularly convened, that is used primarily for religious worship and
21 schooling and that a reasonable person would conclude is a church by reason
22 of design, signs or architectural or other features.